

REMARKS/ARGUMENTS

The Office Action mailed October 21, 2005, has been received and reviewed. Claims 1 through 12 are currently pending in the application. Claims 1 through 12 stand rejected. Applicants have amended claims 1 through 3, 9, and 12, and claim 6 has been cancelled without prejudice or disclaimer. New claims 13 through 20 have also been added. Applicants respectfully request reconsideration of the application as amended herein.

Objections to the Drawings

The replacement drawings mailed on October 20, 2004, are objected to under 37 CFR 1.83(a) based on a "ground plate" recited in claims 6 and 16 and a "static opener arm" recited in claim 17. Initially, Applicants note that the application includes pending claims 1 through 12, and that the objections directed to claims 16 and 17 appear to be in error.

With respect to claim 6, Applicants submit that the drawings, in their present form, sufficiently illustrate the features of the invention recited to provide an understanding of the subject matter sought to be patented. Nevertheless, in order to advance prosecution, Applicants have cancelled claim 6 without prejudice or disclaimer to the subject matter recited therein, and request the objections to the drawings be withdrawn.

Claim Objections

Claim 9 is objected to because "the push" should read "to push" in line 2. Applicants have amended claim 9 to correct this grammatical error as required by the Examiner, and request the objection to claim 9 be withdrawn.

Claim Rejections Under 35 USC § 102

The Examiner has rejected claims 1 through 12 under 35 U.S.C. §102(b) as being anticipated by McCarty (U.S. Patent No. 3,138,270). Applicants respectfully traverse this rejection, as hereinafter set forth.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

McCarty is directed to a foldable load lifting apparatus. The lift according to the preferred embodiment is described as comprising pairs of compression arms 14 and tension arms 18, which are pivotally connected to brackets 12 at first ends and to a platform 16 at opposing ends. (Col. 2, ll. 30-40 and Fig. 1.) A hydraulic cylinder 27 with piston rod 29 extends from a trunnion 25 connected between brackets 12 to a trunnion 32 mounted between compression arms 14. (Col. 2, l. 57 – Col. 3, l. 1.) Supplying or venting fluid in cylinder 27 swings compression and tension arms 14 and 18, thereby raising and lowering platform 16. (Col. 3, ll. 20-28.)

McCarty indicates that, when folding platform 16 into a stored position, platform 16 is first manually lifted from its lowered position into a substantially vertical position. (Col. 3, ll. 33-35 and 59-63 and Fig. 3.) Thereafter, fluid is supplied to cylinder 27 to swing compression arm 14 upwardly, and tension in tension arms 18 causes progressive folding of platform 16 to a point where it rests against trunnion 32. (Col. 3, ll. 64-74 and Fig. 4.) The lift may then be folded under the bed of a vehicle. (Col. 4, ll. 9-13.) When lowering the lift from the folded position, tension on tension arms 18 causes platform 16 to unfold automatically to the substantially vertical position. (Col. 4, ll. 29-33.)

Claim 1, as amended herein, recites the limitation “wherein the active opener arm is configured to engage the platform for movement toward and away from the parallelogram linkage.” In the present rejection, the Examiner considers piston rod 29 in McCarty to be an active opener arm. McCarty, however, does not disclose piston rod 29 as engaging platform 16. Rather, piston rod 29 is described as being pivotally connected to an ear 31 on a trunnion 32 which is rigidly mounted between the compression arms 14. Accordingly, McCarty fails to disclose all the elements of claim 1, and claim 1 is not anticipated. Claims 2 through 5, which depend from and incorporate all the limitations of claim 1, are also not anticipated.

Claim 7, as originally presented, recites the limitations of an upper arm coupling and a lower arm coupling, “the upper arm coupling being lower than the horizontal plane defined by the lower arm coupling” and “an active opener arm rotatably coupled to the lower arm coupling, the active opener arm slidably coupled to the upper arm coupling.” McCarty fails to disclose an active opener arm coupled to upper and lower arm couplings as recited in claim 7 and, therefore, does not anticipate claim 7. Claims 8 through 10, which depend from and incorporate all the limitations of claim 7, are also not anticipated.

Claim 11, as originally presented, recites the limitation "means for assisting a user in stowing and unstowing the means for carrying a load." Piston rod 29 cited by the Examiner does not disclose means for assisting a user in stowing and unstowing means for carrying a load as recited in claim 11.

Claim 12 recites an "active opener arm being capable of receiving the platform from a user when the platform is being stowed." In the present rejection, the Examiner considers piston rod 29 in McCarty to be an active opener arm. For the same reasons as described above, however, piston rod 29 is not disclosed as engaging platform 16.

In view of the foregoing, Applicants submit that claims 1 through 5 and 7 through 12 are allowable over McCarty under the provisions of 35 U.S.C. §102(b), and respectfully request their rejection be withdrawn. Claim 6 has been cancelled without prejudice or disclaimer, and its rejection is, therefore, moot.

ENTRY OF AMENDMENTS AND NEW CLAIMS

The amendments to claims 1 through 3, 9 and 12 above and new claims 13 through 20 should be entered by the Examiner because the amendments and new claims are supported by the as-filed specification and drawings and do not add any new matter to the application.

CONCLUSION

Claims 1 through 5 and 7 through 20 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, the Examiner is respectfully invited to contact Applicants' undersigned attorney. The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 50-1847.

Respectfully submitted,

Dated: January 20, 2006

By:


Greg Warder

(Reg. No. 50,208)

Customer No. 36614